

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

CHARLES POOLE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:14-cv-00692-BCW
)	
HARRIS & HARRIS, LTD.,)	Judge Brian C. Wimes
)	
Defendant.)	

**MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6)**

Defendant, HARRIS & HARRIS LTD ("Harris") by its attorney, Corinne C. Heggie, and for its Motion to Dismiss Plaintiff's Amended Complaint pursuant Federal Rule of Civil Procedure 12(b)(6) states:

1. Plaintiff's Amended Complaint alleges no new facts. It is based on the same Fair Credit Reporting Act (FCRA) theory – that Harris obtained his credit report without his permission and thus no permissible purpose under the FCRA. Harris moved to dismiss this claim in its opening brief. *See* Dkt. #6-7, 9.

2. Plaintiff's amendment alleges the following new state law claims: §§ 407.020 (Missouri Merchandising Practices Act)("MMPA"); 570.223 (Identity Theft); and 570.140 (Deceptive Business Practices Act). *See* Dkt. #13 ¶¶ 14, 21, 23. Plaintiff's new state law claims should be dismissed with prejudice to the extent they are based on the no permissible purpose FCRA theory.

3. Additionally, the MMPA does not apply because plaintiff alleges he had no dealings or transactions with Harris. Plaintiff also fails to allege facts that state a plausible cause

of action against Harris for relief under the Missouri identity theft or deceptive business practices statutes either.

4. Plaintiff's entire amendment is subject to dismissal. Defendant files its Supplemental Memorandum of Law contemporaneously with this Motion to address the new theories in the amendment and why they should be dismissed with prejudice.

WHEREFORE, Defendant, Harris & Harris, Ltd., respectfully requests this court dismiss Plaintiff's Amended Complaint with prejudice pursuant to Federal Rule of Civil Procedure for the reasons stated herein and in Defendant's Supplemental Memorandum of Law.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

/s/Corinne C. Heggie

Corinne C. Heggie, One of the Attorneys for
Defendant, Harris & Harris, Ltd.

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a copy of **Defendant's Motion to Dismiss Plaintiff's Amended Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Supplemental Memorandum of Law in Support of Defendant's Motion to Dismiss** was electronically filed with the Clerk of the Western District of Missouri, Western Division and U.S. mail to plaintiff pro se this **15th Day of October, 2014:**

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By: /s/Corinne C. Heggie
One of the Attorneys for Defendant,
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